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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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10/599,237

09/22/2006

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52044 7590 09/30/2008  
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EXAMINER

BUTLER, DENNIS

ART UNIT

PAPER NUMBER

2115

MAIL DATE

DELIVERY MODE

09/30/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

|                              |                                      |                                      |  |
|------------------------------|--------------------------------------|--------------------------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/599,237 | <b>Applicant(s)</b><br>NAKATA ET AL. |  |
|                              | <b>Examiner</b><br>Dennis M. Butler  | <b>Art Unit</b><br>2115              |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 22 September 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-9 is/are allowed.
- 6) ☒ Claim(s) 10, 11, 14, 15, 20 and 21 is/are rejected.
- 7) ☒ Claim(s) 12, 13 and 16-19 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 September 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>11/9/06</u> .   | 6) <input type="checkbox"/> Other: _____                          |

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1. This action is in response to the application filed on September 22, 2006. Claims 1-21 are pending. This application is a 371 application of PCT/JP2005/005288 filed on March 23, 2005.

***Priority***

2. Applicant has claimed priority to applications JP 2004-084352 and JP 2004-292214. However, none of the priority documents have been received. A certified copy of each priority document must be submitted in order to perfect the claim of priority.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 10-11, 14-15 and 20-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Fujimoto, U. S. Patent 5,841,323.

Per claims 10, 20 and 21:

A) Fujimoto teach the following claimed items:

1. a clock generating device with figure 1;
2. an A/D converting means with A/D converter 2 of figure 1 and at column 5, lines 18-31;

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3. a first phase error calculating means with phase comparator 21, with figure 2, at column 5, lines 36-45 and column 6, lines 5-62;
4. a first displacement distribution detecting means with frequency comparator 23, low-pass filter 24 and switch 25 of figure 1, with figure 3, at column 5, lines 46-64 and column 6, line 63 – column 7, line 41;
5. a loop filter means with loop filter 26 of figure 1 and at column 5, lines 65-67;
6. a clock oscillating means with VCO 27 of figure 1 and at column 6, lines 1-4.

Per claims 11, 14 and 15:

Fujimoto discloses a synchronization determining means with figures 2 and 3 and at column 7, line 44 – column 9, line 25. Fujimoto discloses detecting distribution by accumulating signs of the displacements only when the absolute value of the displacement is larger than a predetermined value with figures 3, 4A and 4B and at column 6, line 65 – column 7, line 41.

***Allowable Subject Matter***

5. Claims 12-13 and 16-19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
6. Claims 1-9 are allowable over the prior art because the prior art does not teach or suggest the recited combination of interrelated elements or steps in independent claims 1, 8 and 9.

***Conclusion***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dennis M. Butler whose telephone number is 571-272-3663. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Dennis M. Butler/  
Primary Examiner, Art Unit 2115

Dennis M. Butler  
Primary Examiner  
Art Unit 2115